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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,094	12/02/2003	Yingfai Cheung	USP2136A-YC	1750

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EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,094

Applicant(s)

CHEUNG, YINGFAI

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-46 is/are pending in the application.
 4a) Of the above claim(s) 15-26 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 27-46 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,000,171 to Wotton in view of French Patent FR2536247 to Vatan.

Regarding Claim 27, Wotton teaches a method for guiding a growing plant via a supporter, comprising the steps of: (a) providing a guiding member having a length substantially long enough to bind around said growing plant with said supporter, wherein said guiding member has a head portion defining at a head end, a tail portion defining at a tail end (Wotton Fig. 3, Fig. 11 and Fig. 16). Wotton is silent on the locking teeth and a triangular locker slot. However, Vatan teaches a method of guiding a growing plant utilizing guide member with a head portion (Vatan Fig. 1 #4) and a tail portion (Vatan Fig. 1 #5) and a plurality of locking teeth (Vatan #5') spacedly formed along a longitudinal edge of said tail portion of said guiding member, (b) inherently twisting said tail portion of said guiding member to substantially align with an adjacent edge of a locker slot, having a triangular shape (Vatan #4'), formed at said head portion of said guiding member, wherein said adjacent edge of said locker slot is substantially larger than a width of said guiding member, wherein said locker slot has a width gradually increasing towards said head end of said guiding member, (c) inherently

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slidably inserting said tail portion of said guiding member through said locker slot to form a binding loop (Vatan Fig. 5) around said growing plant, wherein said tail portion of said guiding member is slid along said adjacent edge of said locker slot to adjust a loop diameter of said binding loop corresponding to a distance between said growing plant and said supporter; and (d) twisting said tail portion of said guiding member back to its original orientation such that a holding neck portion of said corresponding locking tooth is locked at said locker slot by a transverse width thereof so as to retain said loop diameter of said binding loop to fittingly bind said growing plant, wherein said transverse width of said locker slot is larger than a thickness of said guiding member and is larger than a width of said holding neck portion of each of said locking teeth.

It would have been obvious to one of ordinary skill in the art to modify the teachings of Wotton with the teachings of Vatan at the time of the invention since the modification is merely the selection of a known alternate equivalent adjustable bendable plant tie selected for the advantage of providing a more secure connection (Vatan 5' and 4') by providing the locking feature.

The method steps of the instant invention are readily apparent during the operation of the device of Wotton modified by Vatan.

Regarding Claim 28, Wotton as modified teaches (e) when said growing plant grows to increase a diameter thereof to a grown diameter, releasing said guiding member from said growing plant by twisting said tail portion of said guiding member to align with said adjacent edge of said locker slot to unlock said respective locking tooth with said locker slot such that said tail portion of said guiding member is allowed to

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slidably eject from said locker slot; (f) slidably releasing said tail portion of said guiding member along said adjacent edge of said locker slot such that said binding loop of said guiding member is adjusted for fitting said grown diameter of said growing plant with respect to said supporter; and (g) twisting said tail portion of said guiding member back to its original orientation such that said locking neck portion of said adjacent locking tooth is locked at said locker slot so as to retain said loop diameter of said binding loop to fittingly re-bind said guiding member around said growing plant with said supporter (Vatan English abstract teaches adjusting the size of the loop to accommodate the growth of the plant).

Regarding Claims 29 and 30, Wotton as modified teaches a height of said locker slot at least equals to said width of said guiding member (Vatan Fig. 1 #4 and 4')..

Regarding Claims 31, 32, 33, and 34, Wotton as modified teaches wherein a plurality of elongated slit are spacedly and inclinedly cut along two longitudinal edges of said tail portion of said binding member respectively to form said locking teeth and to define said holding neck portion on said binding member at a foot portion of each of said locking teeth (Vatan Fig. 1 edges of #5')..

Regarding Claim 35, 36, 37, 38, Wotton as modified teaches wherein each of said locking teeth has a guiding edge having an outer end formed at said longitudinal edge of said tail portion of said guiding member and an inner end inclinedly and inwardly extended on said guiding member towards said tail end thereof to define said holding neck portion on said guiding member at said inner end of said guiding edge of each of said locking teeth. (Vatan Fig.1 the pointed edges of element 5').

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Regarding Claims 39, 40, 41, and 42, Wotton as modified teaches wherein said guiding edge of each of said locking teeth is extended inclinedly at a direction corresponding to an inserting direction of said tail portion of said guiding member such that said locking teeth are allowed to slide through said locker slot at said inserting direction while said locking teeth are blocked up at said transverse width at an ejecting direction which is opposed to said inserting direction (Vatan Fig. 5).

Regarding Claims 43, 44, 45, and 46, Wotton as modified teaches wherein said tail end of said guiding member has a tapered shape having a width substantially smaller than said transverse width of said locker slot such that said tapered tail portion of said guiding member is guided to slide through said locker slot when said tail end of said guiding member is inserted there through (Vatan tip of element #5 in Fig. 1).

Response to Arguments

Applicant's arguments with respect to claims 27-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Japanese Patent JP 2000-217447; PCT WO 02/068289; U.S. Patent D442,851; U.S. Patent No. 4,477,950; U.S. Patent No. 3,834,824; U.S. Patent No. 3,255,501; U.S. Patent No. 2,542,479; U.S. Patent No. 1,810,027; U.S. Patent No. 5,189,761; U.S. Patent D451,372; U.S. Patent Des. 265,175.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Patent Examiner
Art Unit 3643

24 June 2005



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600

6/24/05